

No. 23-12737

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

YIFAN SHEN, et al.,

Plaintiffs–Appellants,

v.

WILTON SIMPSON, in his official capacity as
Florida Commissioner of Agriculture, et al.,

Defendants–Appellees.

On Appeal from the United States District Court
for the Northern District of Florida, No. 4:23-cv-208 (Winsor, A.)

**NOTICE TO THE COURT CONCERNING
PLAINTIFF–APPELLANT ZHIMING XU**

Ashley Gorski
Patrick Toomey
Shaiba Rather
Omar Jadwat
Sidra Mahfooz
Noor Zafar

**AMERICAN CIVIL LIBERTIES
UNION FOUNDATION**

125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
agorski@aclu.org

Keliang (Clay) Zhu
DEHENG LAW OFFICES PC
7901 Stoneridge Drive, Suite 208
Pleasanton, CA 94588
(925) 399-5856
czhu@dehengsv.com

Derek L. Shaffer
**QUINN EMANUEL URQUHART &
SULLIVAN, LLP**
1300 I Street NW, 9th Floor
Washington, D.C. 20005
(202) 538-8000
derekshaffer@quinnmanuel.com

(list of counsel continued on next page)

Cody Wofsy
**AMERICAN CIVIL LIBERTIES
UNION FOUNDATION**
39 Drumm Street
San Francisco, CA 94111
(415) 343-0770
cwofsy@aclu.org

Daniel B. Tilley
ACLU FOUNDATION OF FLORIDA
4343 West Flagler Street, Suite 400
Miami, FL 33134
(786) 363-2707
dtilley@aclufl.org

Bethany Y. Li
Elizabeth Koo
Razeen Zaman
**ASIAN AMERICAN LEGAL
DEFENSE AND EDUCATION
FUND**

99 Hudson Street, 12th Floor
New York, NY 10013
(212) 966-5932
bli@aaldef.org

Nicholas L.V. Warren
ACLU FOUNDATION OF FLORIDA
336 East College Avenue, Suite 203
Tallahassee, FL 32301
(786) 363-1769
nwarren@aclufl.org

Attorneys for Plaintiffs–Appellants

NOTICE TO THE COURT CONCERNING
PLAINTIFF-APPELLANT ZHIMING XU

Plaintiff Zhiming Xu, through undersigned counsel, writes to inform the Court that he intends to proceed with the closing for his contracted-for home, which is scheduled for Tuesday, November 28, 2023. The seller of the property, Lennar Homes LLC, has refused to further delay the closing.

Mr. Xu previously intended to cancel his contract if he failed to obtain an injunction against the enforcement of SB 264. *See* App. 120. Although Plaintiffs' Time-Sensitive Motion for an Injunction Pending Appeal is still pending before the Court, *see* Dkt. No. 4-1, the seller's refusal to delay the closing past November 28 has left Mr. Xu in an impossible position. He faces the prospect of losing both his \$31,250 deposit and the unique property for which he contracted. Ultimately, after much consideration, Mr. Xu has decided that he wishes to proceed with the transaction, notwithstanding the substantial risks resulting from SB 264's unconstitutionally vague terms and his fear that the law will be enforced against him.

Mr. Xu continues to respectfully request that the Court enjoin the enforcement of SB 264 pending appeal, *see* Dkt. Nos. 4-1 & 48, and reverse the district court's denial of Plaintiffs' motion for a preliminary injunction, *see* Dkt. Nos. 38 & 51.

Dated: November 27, 2023

Respectfully submitted,

/s/ Ashley Gorski

Keliang (Clay) Zhu
DEHENG LAW OFFICES PC
7901 Stoneridge Drive, Suite 208
Pleasanton, CA 94588
(925) 399-5856
czhu@dehengsv.com

Derek L. Shaffer
QUINN EMANUEL URQUHART & SULLIVAN, LLP
1300 I Street NW, 9th Floor
Washington, D.C. 20005
(202) 538-8000
derekshaffer@quinnmanuel.com

Bethany Y. Li
Elizabeth Koo
Razeen Zaman
ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND
99 Hudson Street, 12th Floor
New York, NY 10013
(212) 966-5932
bli@aaldef.org

Nicholas L.V. Warren
ACLU FOUNDATION OF FLORIDA
336 East College Avenue, Suite 203
Tallahassee, FL 32301
(786) 363-1769
nwarren@aclufl.org

Ashley Gorski
Patrick Toomey
Shaiba Rather
Omar Jadwat
Sidra Mahfooz
Noor Zafar
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2500
agorski@aclu.org

Cody Wofsy
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
39 Drumm Street
San Francisco, CA 94111
(415) 343-0770
cwofsy@aclu.org

Daniel B. Tilley
ACLU FOUNDATION OF FLORIDA
4343 West Flagler Street, Suite 400
Miami, FL 33134
(786) 363-2707
dtalley@aclufl.org

Attorneys for Plaintiffs–Appellants

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2023, the foregoing was filed electronically with the Clerk of Court through the appellate CM/ECF system. I further certify that all parties required to be served have been served.

Dated: November 27, 2023

/s/ Ashley Gorski
Ashley Gorski
American Civil Liberties Union
Foundation

Attorney for Plaintiffs–Appellants